IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3771 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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S M PATEL

Versus

STATE OF GUJARAT

Appearance:

MR BP TANNA for Petitioner.

Mr. B.Y. Mankad, AGP for Respondent No. 1,2

MR DG CHAUHAN for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 05/04/2002

ORAL JUDGEMENT

The petitioner, in this petition under Article 226 of the Constitution of India, has challenged the legality and validity of the Recruitment Rules for the post of Chief Engineer (Civil & Mechanical) in the Gujarat Water Supply & Sewerage Board Recruitment Rules, 1992, as violative of Articles 14 and 16 of the Constitution of India. The petitioner has also sought a

declaration to the effect that the Chief Engineer, Class-I, (Public Health Engineering Services) Recruitment Rules, 1980, holds the field and the persons like the petitioner are governed by the said Rules throughout their career. On the basis of this, the petitioner has prayed for the interim relief seeking his appointment to the post of Chief Engineer (Mech) and restraining the respondents from promoting any other person to the post of Chief Engineer (Mech.).

2. Initially, the petition was admitted by this Court and ad-interim relief in terms of Para 24(c) was granted on 3-6-1992. Thereafter, a Civil Application No. 2726 of 1993 was moved by the respondents praying vacation of the said interim relief and this Court vide its order dated 1.12.83 has vacated the ad-interim relief granted on 3.6.92. While vacating the said interim relief, this Court has observed that it is undisputed fact that the petitioner has already retired from the service of the respondent Board and no useful purpose was served in continuing the said interim relief.

3. I have heard Mr. B.P. Tanna, learned advocate for the petitioner, Mr. D.G. Chauhan, ld. advocate appearing for the respondent No.2 and Mr. Mankad, ld. AGP appearing for respondent No.1. Since the respondent has already retired way back in 1993, no useful purpose would be served to decide the issue involved in the petition for academic interest only. I am, therefore, not expressing any opinion on the legality and validity of the impugned rules as the petitioner had not been in service since 1993. He is not now interested in seeking the post of Chief Engineer from the respondent Board. In any case, the issue involved in this petition may be decided in any other appropriate matter. As far as the petitioner is concerned, the relief prayed by him cannot be granted in view of the fact that he has already retired from the service way back in 1993. In these peculiar facts and circumstances of the case, I am of the view that the present petition deserves to be rejected having been infructuous qua the petitioner and hence the present petition is rejected. Rule discharged. There will be no order as to costs.

[K.A. Puj, J.]

rmr.